

REMARKS

Claims 1-33 are pending.

Claims 20-33 are withdrawn.

Claims 1-19 stand finally rejected as obvious over the prior art, as discussed below.

Overview

In the Examiner's "Response to Arguments," several statements are made which Applicant respectfully disagrees with:¹

- A "the sides of the front and rear waist portions of Dravland overlap when the diaper is fastened, as shown in figure 4, and therefore are **joined** together";
 - B "the edge portions of the leg openings together form a substantially circular leg opening as shown in figure 4, and therefore complement each other"; and
 - C "In this case, the S-shaped front portion taught by Imsangjan (see figure 4) provides an improvement over a simple curved front portion such as that shown by Dravland. While Dravland already teaches a type of high-cut leg opening, the teaching of Imsangjan can provide an improvement even beyond the leg opening of Dravland, and therefore it would be obvious to modify Dravland in view of Imsangjan."
1. a statement based on similarly reasoning is made at page 4 of the Office Action: "It would therefore be obvious to one of ordinary skill in the art at the time of invention to provide the front portion of the leg openings of Dravland with an S-shaped arcuate edge portion, as taught by Imsangjan, to help keep the garment in place during use and improve comfort."

A.

The "sides" of the front and rear sections in Dravland are not "joined" together. Applicant respectfully disagrees that layers which merely "overlap" are equivalent to layers which are "joined." In the context of the claimed invention, a standard dictionary definition of "joined" is:

- **verb:** To come together so as to form a connection.
- **Synonyms:** These verbs mean to fasten or affix or become fastened or affixed.

Consequently, the commonly understood definition of "joined" does not include two things which are merely lying "adjacent" each other and not otherwise connected,

attached, or affixed to each other. Moreover, one of ordinary skill in the art would understand that the definition of “joined” requires some manner of connection or attachment between the components.

As discussed in the prior response (and reiterated below), Dravland has a back section 10a that is “joined” (i.e., “attached”) to a front section 10c, and such attachment occurs at the middle of the front section 10c. Therefore, the front and back sections in Dravland are not “joined” together at the sides, as recited in the claims.

B.

Dravland does not disclose either “substantially circular” leg openings or side edges of the front and rear sections which form “complementary” shaped portions. Applicant respectfully disagrees that “the edge portions of the leg openings together form a substantially circular leg opening as shown in figure 4, and therefore complement each other.”

Figure 4 of Dravland clearly shows that the leg openings of that article form a “tear drop” shape, and are thus not substantially circular. More importantly however, the claims require that edges of each of front and rear sections form “complementary” concave/convex portions. Thus, as to the issue of whether the “edges” of the front and rear sections in Dravland form “complimentary” portions- it is clear that they do not.

The figures in Dravland plainly show that the edge of the front section 10c does not form any shape which is complimentary to any shape formed by the edge of the rear section 10a. Referring to figure 1 of Dravland, it can be seen that the front section 10c comprises substantially “straight” side edges which extend from the crotch region to the waistband. On the other hand, the side edges of the rear section 10a, which comprises a majority of the leg opening, clearly have an arcuate curvature.

Consequently, the side edges of the rear section 10a form a shape which is decidedly different from the shape formed by the side edges of the front section 10c. Therefore, the corresponding edge portions of the leg openings in Dravland do not form complementary shaped front and rear portions.

¹ emphasis added.

Furthermore, as explained by Applicant in the previous response, and as reiterated in the “Arguments” hereinafter:

Imsangjan and Dravland do not disclose or teach both a (1) “a concave recess” and a “convex projection” in the same article; or wherein (2) the upper concave and lower convex portions have a “complimentary shape.”

In other words, an important difference between the article recited in claim 1 and the articles described in both Dravland and Imsangjan is that neither of those patents disclose or teach both a convex recess in the front/upper leg openings and a concave projection in the rear/lower leg openings in the same article.

C.

The prior art does not teach or suggest any of the alleged “improvements” cited by the Examiner as the reason it would have been obvious to modify Dravland in view of Imsangjan. Applicant’s disclosure describes providing S-shaped arcuate edges on front and rear portions of the article to form complimentary shaped concave and convex leg openings. As taught only by Applicant’s disclosure, such complimentary shaped leg openings are provided in order to provide an improved fit, including increased comfort while providing very good coverage of the buttocks to collect and retain waste.

Neither Dravland nor Imsangjan teach or suggest that Dravland could be, or needs to be, “improved” by the Examiner’s suggested modification of Dravland. Such a modification would be relatively drastic since the front and rear sections are not joined at the sides. In fact, Dravland is constructed very differently from Imsangjan, and it would require a substantial redesign of the article in Dravland to incorporate the S-shaped arcuate edge shown in Imsangjan.

Nothing in Dravland or Imsangjan suggests either (1) that the high-cut leg openings in Dravland are uncomfortable or (2) that the garment in Dravland does not stay in place during use because of the particular shape of the leg openings therein. Accordingly, nothing in the cited prior art provides any teaching, suggestion or motivation to modify Dravland in view of Imsangjan in the manner suggested.

The only present source of any such teaching to “improve” Dravland is Applicant’s own disclosure, the use of which would constitute the improper use of “hindsight.”

Therefore, a prima facie case of obviousness has not been established with respect

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to claims 1-7 and 16-17.

Arguments

All of the arguments presented in the Overview above are reiterated, in addition to the arguments set forth below which were presented in Applicant's prior response dated May 22, 2007.

I. Claims 1-7, and 16-17 stand rejected under 35 U.S.C. § 103(a) as being obvious over Dravland (4,906,243) in view of Imsangjan (7,011,653). This ground of rejection is respectfully traversed.

The Examiner states that "Dravland discloses **all** aspects of the claimed invention with the exception of the front section having an S-shaped arcuate edge portion."

Respectfully, this is incorrect- the Examiner fails to address important limitations in claim 1. For example, claim 1 recites the following limitations which are not specifically treated by the Examiner:

1. said front waist portion and said rear waist portion being joined together at the sides of said chassis, said belly portion and said rear back portion being joined together at the sides of said chassis;
2. a substantially S-shaped arcuate edge portion at said front section with a concave recess forming a high-cut upper portion of the leg openings, a substantially S-shaped arcuate edge portion at said rear section with a convex projection forming a lower portion of the leg openings; and
3. said concave edge portion of one of said leg openings being of complementary shape to said convex edge portion of said one of said leg openings, said concave edge portion of the other of said leg openings being of complementary shape to said convex edge portion of said other of said leg openings;

A. Dravland does not disclose or teach a "front waist portion and said rear waist portion being joined together at the sides of said chassis." Instead, Dravland discloses a "back section 10a" that wraps around and attaches at generally the middle of a "front section 10c."

It is admitted that Imsangjan does disclose front and rear sections joined at the sides

of the chassis. However, it is important to note that Dravland is not made this way because it illustrates an important difference between Dravland and Imsangjan that bear upon whether one of skill in the art would modify Dravland in the manner suggested by the Examiner.

The Examiner states that it would have been obvious to provide the “substantially S-shaped arcuate edge portion” on the article in Dravland because it would “help keep the garment in place during use and improve comfort.” Applicant respectfully disagrees with this argument.

For one thing, Dravland already expressly states that the “inverted V-shaped leg openings 34 (FIG. 3) in the front [allow] freer forward and upward movement of the infant’s legs.” (Col. 3, lns. 39-41.) As a result, there is no teaching, motivation, suggestion, or other sufficient reason why anyone would seek to modify Dravland in view of Imsangjan-- Dravland already describes a type of high-cut leg opening.

Additionally, because the front section and the rear section are not attached at the sides of the chassis in Dravland, it is not reasonable to assume that the front section in Dravland could in fact be altered to have an S-shaped arcuate edge portion. To provide an even higher-cut opening in the lower edge of the front section might not be possible/practicable without totally redesigning the structure of the article. There is no reason (i.e., no teaching, suggestion or motivation) in the prior art to redesign Dravland like this, especially in view of the express teaching in Dravland that the leg openings already provide sufficient forward and upward movement of the infant’s legs.

B. Imsangjan admittedly discloses front and rear portions joined at the sides of the chassis. However, neither Imsangjan nor Dravland disclose or teach either the second or third limitations listed above. Specifically, Imsangjan and Dravland do not disclose or teach both a (1) “a concave recess” and a “convex projection” in the same article; and wherein (2) the upper concave and lower convex portions have a “complimentary shape.”

Accordingly, even if Dravland were modified to providing a substantially S-shaped arcuate edge portion for the front of the leg opening as shown in Imsangjan, that still would not meet the limitations of claim 1. This is because even if Dravland were somehow modified to incorporate an S-shaped arcuate edge portion for the front of the leg opening, that does not also necessarily mean that the concave and convex portions must have a

“complimentary shape.”

In other words, an important difference between the article recited in claim 1 and the articles described in both Dravland and Imsangjan is that **neither of those patents disclose or teach both a convex recess in the front/upper leg openings and a concave projection in the rear/lower leg openings in the same article.** In Dravland, there is a concave projection in the rear/lower leg openings, but no convex recess in the front/upper leg openings. In Imsangjan, there may be convex recess formed in the front/upper leg opening, but there is no concave projection in the rear/lower leg openings.

Both Dravland and Imsangjan are devoid of any disclosure or teaching to provide **both a convex recess in the front/upper leg openings and a concave projection in the rear/lower leg openings.** As would therefore be expected, there is also no disclosure or teaching in Dravland or Imsangjan that the convex and concave portions have a “complimentary shape.”

The only teaching to combine both features into one article is found in Applicant’s disclosure. Thus, it would appear that Applicant’s own disclosure is being used as a guide to combine portions of prior art in a manner which is otherwise not disclosed or taught in the prior art. If so, this would constitute the improper use of “hindsight.”

Because neither Dravland nor Imsangjan disclose or teach at least these two limitations, claim 1, and hence claim 2-20 which depend therefrom, are patentable over both of these references.

II. Claims 8-13, and 18-19 stand rejected under 35 U.S.C. § 103(a) as being obvious over Dravland (4,906,243), in view of Imsangjan (7,011,653) and Otsubo (US 2002/0151864).

Claims 8-13 and 18-19 depend from claim 1, and are thus allowable if claim 1 is allowable.

III. Claims 14-15 stand rejected under 35 U.S.C. § 103(a) as being obvious over Dravland (4,906,243) in view of Imsangjan (7,011,653), Otsubo (US 2002/0151864) and Goode et al. (5,843,056).

Claims 14-15 depend from claim 1, and are thus allowable if claim 1 is allowable.

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CONCLUSIONS

Claim 1 particularly claims that the article has (1) "a concave recess" formed in the upper portion of the leg openings and (2) that the upper concave and lower convex portions of the leg openings have a "complimentary shape." At least these two limitations are not disclosed or taught in Dravland or Imsangjan.

Therefore, claim 1, and hence claims 2-20 which depend therefrom, are patentable over Dravland and Imsangjan, either alone or in combination.

Accordingly, reconsideration and allowance of claims 1-20 are respectfully requested.

Respectfully submitted,

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